

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

APR 18 2008

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NANANG SOLIKHIN,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 05-73971

Agency No. A96-226-664

MEMORANDUM *

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted April 16, 2008**
San Francisco, California

Before: TROTT and THOMAS, Circuit Judges, and HOGAN***, Chief District
Judge.

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without
oral argument. *See* Fed. R. App. P. 34(a)(2).

*** The Honorable Michael R. Hogan, United States District Judge for the
District of Oregon, sitting by designation.

Nanang Solikhin, a native and citizen of Indonesia, petitions for review of the Board of Immigration Appeals' order summarily affirming the pretermission of his application for cancellation of removal pursuant to 8 U.S.C. § 1229b. Because the parties are familiar with the factual and procedural history, we need not recount it here. We have jurisdiction pursuant to 8 U.S.C. § 1252, and we deny the petition for review.

Solikhin's argument that the immigration judge violated his due process rights by retroactively applying 8 U.S.C. § 1229b(d)(2) to his case is foreclosed by *Garcia-Ramirez v. Gonzales*, 423 F.3d 935 (9th Cir. 2005).

Solikhin also argues that the Non-Immigrant Information System ("NIIS") printout does not constitute reliable evidence of the date he departed the United States because the information it contains is collected by airline employees, not government officials, and because the printout at issue here is missing entries for the departure carrier or flight number. However, he did not produce any evidence to contradict the December 28, 1996 departure date. Thus, his argument that the NIIS data is unreliable is insufficient to meet his burden of establishing he had not been outside of the United States for a period of more than ninety days. *See* 8 C.F.R. § 1240.8(d).

PETITION FOR REVIEW DENIED.